Writ Petition no. 231 (S/S) of 2002
(Old No. 28752 of 1995)

Vishamber Dutt Seti----- Petitioner

Versus

The commissioner and others. Respondents

Hon'ble M.M. Ghildiyal J.

Heard Sri Sharad Sharma learned counsel for the petitioner and learned Standing Counsel.

The petitioner has filed the present petition for a direction to the respondents to pay salary to the petitioner of the post of Assistant Instructor and further to regularize his services on the post of Assistant Instructor. The petitioner was initially appointed as lab technician in the department on 7.5.1983. The appointment letter is annexure 1 to the writ petition. From the appointment letter it appears that the petitioner was appointed as temporary lab tech against a clear vacancy on 25.5.1985. The petitioner was promoted vide order dated 3.4.1992 by the Commissioner and Director General, Tourism on ad hoc basis till duly selected candidate is appointed on the post or for a period of six months which ever is earlier. Vide order dated 19.11.1992 the ad hoc promotion was extended for further six months in the interest of students. However, vide order dated 4.5.1994 the petitioner was reverted to his original post of lab technician. The petitioner has submitted that even after passing of the order of reversion the petitioner is still working till today on the post of assistant instructor. However, the salary is being drawn against the post of lab technician. Learned Standing Counsel has filed counter affidavit in which he has taken a stand that the petitioner is being paid salary against the post of assistant instructor even after passing the reversion order. It is not disputed that no service rules have been framed till today in respect of assistant instructors. The petitioner is continuously working since 1992 as assistant instructor. The earlier promotion was made by the department on the ground that it was in the interest of students to give ad hoc promotion to the petitioner. The petitioner has filed alongwith rejoinder affidavit a certificate issued by the secretary to the effect that the petitioner is still working as assistant instructor pertaining to the year 2002-2003. Since no service rules have been made till now nor any person has been selected

against the said post on which the petitioner is continuously working, the petitioner is entitled to get salary of the post of assistant instructor. It is not disputed that the post is sanctioned and is vacant. Considering all these facts the respondents are directed to consider the petitioner for regularization on the post of assistant instructor within one month from the date of production/receipt of certified copy of this order.

With these observations the writ petition is disposed of finally.

July 02,2003
MPS

(M.M.GHILDIYAL J.) v